

California Regional Water Quality Control Board
Santa Ana Region
Staff Report
February 3, 2004

ITEM: 16

SUBJECT: Mandatory Penalties Complaint No. R8-2004-0077 for Hamid Farsai, Huntington Beach ARCO, 6002 Bolsa Avenue, Huntington Beach, CA – Order No. R8-2005-0042

BACKGROUND

On October 4, 2004, the Executive Officer issued Mandatory Penalties Complaint (MPC) No. R8-2004-0077 to Hamid Farsai of Huntington Beach ARCO (HB ARCO) for alleged violations of the General Groundwater Cleanup Permit, Order No. R8-2002-0007, NPDES No. CAG918001 (General Permit). In the MPC (attached), the Executive Officer proposed an assessment of \$12,000 for the alleged violations.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is to consider adoption of Order No. R8-2005-0042, which affirms MPC No. R8-2004-0077. MPC No. R8-2004-0077 was issued by the Executive Officer to Hamid Farsai for violations for which the Board must impose a mandatory penalty pursuant to California Water Code (Water Code) Section 13385(h).

DISCUSSION

Hamid Farsai currently owns and operates HB ARCO, a service station at 6002 Bolsa Avenue, in the City of Huntington Beach. A remediation system treats and discharges groundwater to mitigate the effects of an underground storage tank release at the site.

On January 23, 2002, the Board adopted the General Permit, which regulates discharges of extracted and treated groundwater resulting from the cleanup of petroleum hydrocarbons and/or solvents within the Santa Ana Region by establishing effluent limits for a number of constituents, including tertiary butyl alcohol (TBA).

On July 16, 2002, Hamid Farsai was authorized to discharge treated groundwater resulting from its groundwater treatment system under the General Permit and was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-016.

Hamid Farsai has submitted self-monitoring reports, which indicate that four daily and/or monthly effluent limit violations for tertiary butyl alcohol (TBA) occurred between March and September 2003. All four of these are considered serious violations and are subject to mandatory minimum penalties.

Water Code Section 13385(h) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation.

In accordance with Water Code Section 13385(h), the mandatory minimum penalties for the four serious effluent violations cited above are \$12,000.

STATEWIDE ENFORCEMENT POLICY

On February 19, 2002, the State Water Resources Control Board adopted a Revised Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are fair, firm and consistent. The above-described mandatory penalties complaint is in accordance with the State Enforcement Policy.

RECOMMENDATION

Board staff recommends that the Board adopt Order No. R8-2005-0042.

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2005-0042
)	for
Hamid Farsai)	Mandatory Minimum Penalties
Huntington Beach ARCO)	
23276 Pointe Drive, Suite 100)	
Laguna Hills, CA 92653)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on February 3, 2005 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2004-0077, dated October 4, 2004, and to consider imposition of mandatory penalties pursuant to Water Code Section 13385. The Board finds as follows:

1. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit). The Permit regulates discharges of extracted and treated groundwater resulting from the cleanup of groundwater polluted by petroleum hydrocarbons and/or solvents within the Santa Ana Region. The Permit contains effluent limits for a number of constituents, including tertiary butyl alcohol (TBA). On July 16, 2002, the Executive Officer authorized Hamid Farsai to discharge treated groundwater from Huntington Beach ARCO (HB ARCO), located at 6002 Bolsa Avenue in the City of Huntington Beach, under the Permit. The discharge from HB ARCO's system is directed to a nearby storm drain, flowing into the Westminster Channel, a water of the United States. Hamid Farsai was required to monitor the discharge at HB ARCO in accordance with Monitoring and Reporting Program No. 2002-0007-016.
2. Hamid Farsai submitted self-monitoring reports, which indicate that four daily and/or monthly effluent limit violations occurred between March and September 2003. These violations were considered serious and subject to a mandatory minimum penalty.
3. Water Code Section 13385(h) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation.
4. In accordance with Water Code Section 13385(h), the total mandatory minimum penalties for the effluent limit violations cited in Section 2, above, are \$12,000.
5. On October 4, 2004, the Executive Officer issued Complaint No. R8-2004-0077 to Hamid Farsai proposing that the Board impose mandatory minimum penalties of \$12,000 for the violations cited above.

6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, mandatory penalties be imposed on Hamid Farsai in the amount of \$12,000, as proposed in Complaint No. R8-2004-0077 for the violations cited above, payable as set forth below.

1. Hamid Farsai shall pay the entire \$12,000 to the State Water Resources Control Board.

The Executive Officer is authorized to refer this matter to the Attorney General for collection.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's action on this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on February 3, 2005.

Gerard J. Thibeault
Executive Officer



California Regional Water Quality Control Board

Santa Ana Region



ry Tamminen
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 - FAX (951) 781-6288

**Arnold
Schwarzenegger**
Governor

October 4, 2004

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Hamid Farsai
Huntington Beach ARCO
23276 Pointe Drive, Suite 100
Laguna Hills, CA 92653

MANDATORY PENALTIES COMPLAINT NO. R8-2004-0077

Dear Mr. Farsai:

We are enclosing a certified copy of Complaint No. R8-2004-0077, proposing a mandatory penalty of \$12,000. This complaint is issued pursuant to California Water Code Section 13385 (h), for multiple violations of effluent limitations established in Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001). An invoice for this amount is also enclosed.

If necessary, consideration of this matter will be scheduled for the Board's meeting on November 5, 2004. The staff report regarding this complaint and a meeting agenda will be mailed to you not less than 10 days prior to the Board meeting.

You have the option to waive your right to a hearing. Should you decide to waive your right and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If you choose to waive your right to a hearing, please sign the enclosed waiver form and submit the form with a check or money order for \$12,000. The waiver form, the bottom portion of the invoice and the check or money order should be mailed to Sacramento using the enclosed envelope. All other correspondence regarding this complaint should be directed to the address listed on this letterhead.

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please contact us prior to October 13, 2004. At that time, you may submit information that might not have been previously available to staff regarding this violation. This information should address the accuracy of the findings in the complaint.

California Environmental Protection Agency



Recycled Paper

October 4, 2004

If you have any questions regarding this complaint, you may contact Ken Williams at (951) 782-4496 or Valerie Jahn-Bull at (951) 782-4903. All legal questions should be referred to our legal counsel, Jorge Leon, at (916) 341-5180.

Sincerely,



Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. R8-2004-0077, Waiver Form, Invoice and envelope

Cc w/enc. (R8-2004-0077):

Regional Board

State Water Resources Control Board, Division of Water Quality – UST Chief

State Water Resources Control Board, Office of the Chief Counsel – Jorge Leon

U.S. Environmental Protection Agency, Region 9 (WTR-7) – Kathi Moore

S. Javad Masoudi, Environmental Monitoring Services

VJJ...NPDES/HB ARCO MPCltr.doc



**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

IN THE MATTER OF:)	Complaint No. R8-2004-0077
)	for
Hamid Farsai)	Mandatory Penalties
Huntington Beach ARCO)	
23276 Pointe Drive, Suite 100)	
Laguna Hill, CA 92653)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Hamid Farsai, owner and operator of Huntington Beach ARCO (HB ARCO), is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Board), must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385(h).
2. A hearing concerning this Complaint is scheduled for the Board's regular meeting on November 5, 2004. Hamid Farsai or his representatives will have an opportunity to appear and be heard, and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda announcement and the staff report related to this Complaint will be mailed to you not less than 10 days prior to the hearing date.
3. If the hearing is necessary, the Board will consider whether to affirm, reject or modify the proposed mandatory penalties or whether to refer this matter to the Attorney General for recovery of judicial civil liability.
4. This complaint is based on the following facts:
 - a) Hamid Farsai currently owns and operates HB ARCO, a service station at 6002 Bolsa Avenue, in the City of Huntington Beach, since August 2002. A remediation system has treated and discharged groundwater to mitigate the effects of an underground storage tank release at the site.
 - b) On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. 2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit), which regulates discharges of extracted and treated groundwater resulting from the cleanup of petroleum hydrocarbons and/or solvents within the Santa Ana Region by establishing effluent limits for a number of constituents, including tertiary butyl alcohol (TBA).

- c) On July 16, 2002, Hamid Farsai was authorized to discharge treated groundwater resulting from its groundwater treatment system under the Permit and was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-016.
 - d) Hamid Farsai has submitted self-monitoring reports, which show daily and monthly effluent limit violations for tertiary butyl alcohol (TBA). These violations are summarized on Attachment "A".
5. Water Code Section 13385(h) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation.
 6. As shown in Attachment "A", Hamid Farsai had a total of four violations between March and September 2003. All four of these are considered serious violations and are subject to mandatory minimum penalties.
 7. In accordance with Water Code Section 13385(h), the mandatory minimum penalties for the four effluent violations cited in Section 4, above, are \$12,000.
 8. In addition, the Board may also assess administrative civil liability of \$10,000 per day for each day of violation and \$10 per gallon for each gallon discharged in excess of 1,000 gallons in accordance with Water Code Section 13385(c). The maximum administrative civil liability that may be imposed for these violations is \$25,290 (\$20,000 for two days of violation and \$5,290 based on $1,529 - 1,000 = 529$ gallons @ \$10 per gallon).
 9. The Executive Officer proposes that mandatory minimum penalties of \$12,000 be imposed on Hamid Farsai, by the Board, for the violations cited above.
 10. You may waive your right to a hearing. If you wish to waive this right, please sign the attached waiver form and return it, along with a check for \$12,000, made payable to the State Water Resources Control Board, and the bottom portion of the invoice, to Sacramento in the enclosed envelope.

If you have any questions regarding this complaint, please contact Ken Williams at (951) 782-4496, or Valerie Jahn at (951) 782-4903, or the Board's legal counsel, Jorge Leon, at (916) 341-5180.

October 4, 2004
Date


Gerard J. Thibeault
Executive Officer

ATTACHMENT "A"

**TABLE 1A.
DAILY EFFLUENT LIMIT VIOLATIONS FOR TERTIARY BUTYL ALCOHOL**

VIOLATION DATE	DISCHARGE FLOW Gallons Per Day	EFFLUENT LIMIT Daily Maximum in µg/l	DISCHARGE (µg/l)
3/4/03	373	18.6	170
9/10/03	1,156	18.6	27

**TABLE 1B.
MONTHLY EFFLUENT LIMIT VIOLATIONS FOR TERTIARY BUTYL
ALCOHOL**

VIOLATION MONTH	EFFLUENT LIMIT Monthly Average in µg/l	DISCHARGE Monthly Average in µg/l
March 2003	12.0	170
September 2003	12.0	27